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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,604	09/19/2003	Lewis J. Thomas III	2003P09373US	8555

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Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

EXAMINER

TRAN, TUYETLIEN T

ART UNIT	PAPER NUMBER
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2179

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/666,604

Applicant(s)

THOMAS, LEWIS J.

Examiner

TuyetLien (Lien) T. Tran

Art Unit

2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/19/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-4 and 14-16 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 2-4 and 14-16 recite "the second field"; however, it is not clear whether the second field refers to the second field of the medical image standard or to the second field of the file.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 5-13, 17-24 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Sterritt (Pub No US 2004/0071038; hereinafter Sterritt).

As to claim 1, Sterritt teaches:

A method for displaying and/or manipulating medical image data (e.g., see [0002] and Fig. 1), the method comprising:

(a) providing a medical image viewer in compliance with a medical image standard (e.g., item 701 in Fig. 7 and items 104 in Fig. 5-6);

(b) providing a file in compliance with the medical image standard to the medical image viewer (e.g., see [0013] and Fig. 3), wherein the medical image standard specifies a first field for data not in compliance with the medical image standard and a second field for data in compliance with the medical image standard (e.g., e.g., see [0034] and [0039]), wherein the first field of the file comprises medical image data and the second field of the file comprises information that can be used to obtain software to at least one of display and manipulate the medical image data (e.g., see [0043] and Fig. 4);

(c) obtaining the software (e.g., a DICOM viewer application, see [0047]); and

(d) performing at least one of the following with the software: displaying the medical image data and manipulating the medical image data (e.g., step 810 in Fig. 8).

As to claim 13, Sterritt teaches:

A medical image viewer (e.g., see item 104 in Figs. 5-6) comprising:

a display device (e.g., see item 104 Fig. 1 and viewer display shown in Fig. 11);

a processor (e.g., see item 104 in Fig. 1 and [0033]); and

a storage device storing a file in compliance with a medical image standard (e.g., see [0013] and Fig. 3), wherein the medical image standard specifies a first field for data not in compliance with the medical image standard and a second field for data in compliance with the medical image standard (e.g., see [0034] and [0039]), wherein the first field of the file comprises medical image data and the second field of the file comprises information that can be used to obtain software to at least one of display and manipulate the medical image data (e.g., see [0043] and Fig. 4);

wherein the processor is operative to perform at least one of the following with the software: displaying the medical image data and manipulating the medical image data (e.g., step 810 in Fig. 8 and [0060]).

As to claim 24, Sterritt teaches:

A method for displaying and/or manipulating medical image data (e.g., see [0002] and Fig. 1), the method comprising:

(a) providing a DICOM-compliant medical image viewer (e.g., item 701 in Fig. 7 and items 104 in Fig. 5-6);

(b) providing a file in compliance with DICOM to the medical image viewer (e.g., see [0013] and Fig. 3), wherein the file comprises a DICOM private attribute field comprising non-DICOM-compliant medical image data and a DICOM standard attribute field comprising information that can be used to obtain software to at least one of display and manipulate the medical image data (e.g., see [0043] and Fig. 4);

(c) obtaining the software (e.g., a DICOM viewer application, see [0047]); and

(d) performing at least one of the following with the software: displaying the medical image data and manipulating the medical image data (e.g., step 810 in Fig. 8).

As to claim 5, Sterritt further teaches charging a fee to a user for the software (e.g., see [0017] and Fig. 7).

As to claims 6 and 17, Sterritt further teaches the medical image data comprises ultrasound data (e.g., see Fig. 3 and [0038]).

As to claims 7, 18 and 26, Sterritt further teaches the medical image data is selected from the group consisting of RF data, pre-scan converted data, pre-reconstruction data, and a three-dimensional data set (e.g., see Fig. 3 and [0038]).

As to claims 8 and 19, Sterritt further teaches the medical image data comprises DICOM (e.g., see [0013]).

As to claims 9 and 20, Sterritt further teaches the first field comprise a DICOM private attribute, and wherein the second field comprises a DICOM standard attribute (e.g., see [0043] and Fig. 4).

As to claims 10 and 21, Sterritt further teaches displaying the medical image data (e.g., see step 810 in Fig. 8 and Fig. 11).

As to claims 11 and 22, Sterritt further teaches manipulating the medical image data (e.g., see step 810 in Fig. 8 and Fig. 11).

As to claims 12, 23 and 27, Sterritt further teaches the file is provided to the medical image viewer via one of the following: a network, removable media, and a wireless transmission (e.g., see [0042]).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-4, 14-16 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sterritt in view of Pashupathy et al (Patent No 6078951; hereinafter Pashupathy).

As to claims 2, 14 and 25, Sterritt teaches the limitations of claims 1, 13 and 25 for the reasons as discussed with respect to claims 1, 13 and 25 above. Sterritt does not expressly teach that the information in the second field comprises one of the following: a message instructing a user how to obtain the software, a link to a network location storing the software, and an identification of a network location storing the software.

Pashupathy teaches the client computer system determines a file type of the file by decoding the file suffix of the file; wherein the file suffix of a file indicates the format that the file is in (e.g., see col. 6 lines 35-42 and step 601 in Fig. 6) and instructing a user how to obtain the viewer software to view the file (e.g., steps 605-606 in Fig. 6).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the method of instructing a user how to obtain the software to view a file as taught by Pashupathy to the method of displaying and manipulating the medical image data as taught by Sterritt to include the instruction on how to obtain the viewer software in the second field because Sterritt suggests to the skilled artisans that modality-specific or viewer-specific information can be appended to the header of a DICOM compatible file (e.g., see [0043]). The motivation to combine the teachings of Pashupathy with Sterritt is to allow a physician to have access quickly to the entire data set and allow for rapid change from image to image efficiently even if the physician's computer does not have the software to view it.

As to claims 3 and 15, Sterritt teaches the limitations of claims 1 and 13 for the reasons as discussed with respect to claims 1 and 13 above. Sterritt does not expressly teach the

information in the second field comprises a link to a network location storing the software, and wherein the software is obtained in (c) in response to a user selecting the link. Pashupathy teaches the information in the second field comprises a link to a network location storing the software, and wherein the software is obtained in (c) in response to a user selecting the link (e.g., see col. 7 lines 1-16). Thus, combining Pashupathy and Sterritt would meet the claimed limitation for the same reasons as discussed with respect to claims 2 and 14 above.

As to claims 4 and 16, Sterritt teaches the limitations of claims 1 and 13 for the reasons as discussed with respect to claims 1 and 13 above. Sterritt does not expressly teach wherein the information in the second field identifies a network location storing the software, and wherein the software is obtained in (c) without user action. Pashupathy teaches wherein the information in the second field identifies a network location storing the software, and wherein the software is obtained in (c) without user action (e.g., see col. 7 lines 1-4). Thus, combining Pashupathy and Sterritt would meet the claimed limitation for the same reasons as discussed with respect to claims 2 and 14 above.

Conclusion

The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action.

Examiner's note: Examiner has cited particular columns, line numbers, and figures in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teaching of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TuyetLien (Lien) T. Tran whose telephone number is 571-270-1033. The examiner can normally be reached on Mon-Friday: 7:30 - 5:00, off on alternating Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

T.T
2/9/2007

Lien Tran
Examiner
Art Unit 2179

BA HUYNH
PRIMARY EXAMINER